

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-21

January 21, 2004

MAINE PUBLIC UTILITIES COMMISSION
Investigation Into the Request for Approval
Of CMP to Offer Back-up Generation Equipment
As "Special Facilities" Under Section 13 of its
Terms and Conditions

NOTICE OF INVESTIGATION
AND REQUEST FOR
INTERVENORS AND
COMMENTS

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order we open an investigation to determine whether Central Maine Power Company (CMP) may lawfully provide back-up generation to its affiliate United Shared Services Corporation under its Special Facilities Terms and Conditions Section 13. We also seek intervenors and comments on a series of questions related to the potential provision of this service.

II. BACKGROUND

On January 9, 2004, CMP filed a request for approval of a proposed arrangement with its affiliate Utility Shared Services Corporation (Shared Services) located in New Gloucester, Maine. According to CMP, Shared Services has asked CMP to provide back-up generation facilities in order to improve reliability and ensure uninterrupted distribution service at Shared Service's location. CMP claims that providing such service is a means of enhancing distribution reliability and is consistent with its obligations as a transmission and distribution (T&D) utility.

CMP further contends that back-up generation qualifies as a special facility which its terms and conditions define as "facilities supplied by the Company which are in addition to, or in substitution of, the standard facilities which the Company would normally install to provide service." The Terms and Conditions provide that the customer pays the cost of installation plus certain additional charges (e.g., depreciation, return, income taxes, O&M). CMP claims it will provide such back-up generation facilities to any customer requesting the service.

CMP requests that the Commission determine whether any authorization from the Commission is needed for it to provide back-up generation equipment as a special facility to its affiliate and, if so, to authorize the provision as a service necessary for CMP to perform its obligation as a transmission and distribution utility.

III. DISCUSSION

CMP's request raises a number of novel issues. We can address these issues most efficiently by opening an investigation and receiving input from interested persons. Therefore, we will open an investigation. CMP will be made a party to this proceeding and we will allow intervention by interested parties. We also ask CMP and intervenors to provide responses to the following initial questions to assist us in defining the scope of this proceeding and the approvals required, if any.

IV. GENERAL QUESTIONS

1. Does back-up generation as proposed by CMP in this case meet the definition of generation assets or service in 35-A M.R.S.A. § 3202(10) and (11)?
2. Does CMP's proposal to provide a back-up generator to its affiliate require Commission approval under 35-A M.R.S.A. § 3204(6) which permits a T&D utility to own generation assets to the extent that the Commission finds it necessary for the utility to perform its T&D obligations efficiently?
3. Should back-up generation as proposed by CMP in this case be considered a T&D utility service? If so, should other entities be prohibited from providing the service without prior Commission approval?
4. Does CMP's Special Facilities Terms and Conditions 13 cover back-up generation?
5. Does the provision of back-up generation by CMP to its affiliate require Commission approval under 35-A M.R.S.A. § 707(3)? Should CMP be permitted to provide service to an affiliate pursuant to a tariff such as the Special Facilities Terms and Conditions that contains no actual prices without approval under 35-A M.R.S.A. § 707(3)?
6. CMP states that it will provide back-up generation facilities to all customers requesting such facilities or service. Should CMP have a separate tariff for such an offering?
7. Is the provision of back-up generation a "core" utility service? Should the provision of back-up generation be considered a non-core activity and occur through a separate corporate affiliate as required by Chapter 820?

V. QUESTIONS FOR CMP

8. Describe the equipment and services that CMP will provide to its affiliate Shared Services and what CMP will charge for the equipment and service.

9. Why doesn't CMP's affiliate purchase its own, or lease its own, generator? Why should CMP provide this service? Does CMP have personnel who can provide this service? Is the installation and maintenance of the generator subcontracted?
10. Has CMP provided back-up generation to any other customer? Have any other customers requested such service?
12. Is the back-up generator diesel? Would CMP provide other types of generators on request?
13. Is the operation of the generator solely within the control of the customer? Who procures fuel? What limits the generator to back-up use? Can it be used at anytime at the discretion of the customer?
14. Are any environmental or local permits required to install the generator? If yes, which ones are required and who obtained the permits in the specific instance of this affiliate transaction?

VI. INTERVENTION AND COMMENTS

Petitions to Intervene must be filed with the Commission's Administrative Director by January 28, 2004. Answers or comments on questions are to be submitted to the Commission by February 6, 2004. The Commission will consider further procedures for this investigation upon review of the answers and comments provided in response to this Notice.

Dated at Augusta, Maine, this 21st day of January, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.